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Paging Systems, Inc. and Touch Tel Corporation

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

WARREN HAVENS, SKYBRIDGE
SPECTRUM FOUNDATION, a Delaware
nonprofit corporation; TELESARUS VPC,
LLC, a Delaware limited liability company;
AMTS CONSORTIUM, LLC, a Delaware
Limited Liability Company; INTELLIGENT
TRANSPORTATION & MONITORING, LLC,
a Delaware Limited Liability Company; and
TELESARUS HOLDINGS GB, LLC, a
Delaware Limited Liability Company,

Plaintiffs,

v.

MOBEX NETWORK SERVICES, LLC, a
Delaware Limited Liability Company; MOBEX
COMMUNICATIONS, INC., a Delaware
corporation; MARITIME
COMMUNICATIONS/LAND MOBILE, LLC,
a Delaware Limited Liability Company;
PAGING SYSTEMS, INC., a California
Corporation; TOUCH TEL CORPORATION, a
California corporation; and JOHN DOE Nos. 1-
20,

Defendants.

Civil Action No. 2:11-CV-00993-KSH-CW

Motion Returnable: April 7, 2014

ORAL ARGUMENT REQUESTED

**NOTICE OF MOTION
TO ENFORCE SETTLEMENT
AGREEMENT AND FOR
DISMISSAL WITH PREJUDICE
PURSUANT TO RULE 41(b)**

To: R.N. Tendai Richards, Esq.
Winnie, Banta, Heterington, Basralian & Kahn, P.C.
21 Main Street
Court Plaza South, East Wing
Hackensack, New Jersey 07601

PLEASE TAKE NOTICE that on Monday April 7, 2014 at 9:00 a.m., or as soon thereafter as counsel may be heard, defendants Paging Systems, Inc. and Touch Tel Corporation (collectively, the “Paging Systems Defendants”), shall move, through their undersigned counsel, in the United States District Court for the District of New Jersey, 50 Walnut Street, Newark, New Jersey, before the Honorable Katherine S. Hayden, U.S.D.J., pursuant to Rule 7.1 of the Local Rules of the United States District Court for the District of New Jersey, for an order granting the Paging Systems Defendants’ Motion to Enforce Settlement Agreement and For Dismissal with Prejudice and

- (a) compelling Plaintiffs to promptly execute and deliver, via email, the Transfer Documents and Officer’s Certificates memorializing the assignments of geographic AMTS license effected by numbered paragraphs 2 and 3 of the Settlement Agreement made and entered into April 8, 2013 (“Settlement Agreement”), by and between Plaintiffs and the Paging Systems Defendants and promptly notify the FCC the assignment called for in the Settlement Agreement have been completed,
- (b) compelling Plaintiffs to promptly cause their counsel of record to execute and deliver, via email, a stipulation, in the form agreed to by the parties, dismissing the sole remaining claim in Plaintiffs’ Second Amended Complaint, alleging violation of the Sherman Antitrust Act § 1, against the Paging Systems Defendants, with prejudice,
- (c) directing that Plaintiffs failure to deliver the above-referenced executed closing documents and executed stipulation of dismissal to counsel for the Paging Systems Defendants within seven (7) days of the date of the order will result in

the dismissal of this action against the Paging Systems Defendants, with prejudice, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, and (d) awarding such other and further relief that the Court deems equitable and proper.

PLEASE TAKE FURTHER NOTICE that, in support of this motion, the Paging Systems Defendants shall rely upon the supporting Brief and Certification of Kenneth D. Friedman, Esq., with accompanying exhibits, submitted herewith, together with any papers that the Paging Systems Defendants may submit in reply to any opposition filed;

PLEASE TAKE FURTHER NOTICE that the Paging Systems Defendants request oral argument if this motion is opposed; and

PLEASE TAKE FURTHER NOTICE that at the time and place aforesaid, the Paging Systems Defendants will request that the proposed Order submitted herewith be entered by the Court.

Dated: New York, New York.
March 14, 2014

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Kenneth D. Friedman
Kenneth D. Friedman
7 Times Square
New York, New York 10036
Tel.: (212) 790-4500
*Attorneys for Defendants
Paging Systems Inc. and
Touch Tel Corporation*

CERTIFICATE OF SERVICE

I, Kenneth D. Friedman, hereby certify pursuant to 28 U.S.C. § 1746 that:

1. I am an attorney-at-law of the State of New Jersey, a member in good standing of the Bar of this Court and a partner in the law firm of Manatt, Phelps & Phillips, LLP, attorneys for defendants Paging Systems, Inc. and Touch Tel Corporation in the above-captioned action.

2. On this date, I filed the annexed **NOTICE OF MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR DISMISSAL WITH PREJUDICE PURSUANT TO RULE 41(b)**; the **BRIEF IN SUPPORT OF THE PAGING SYSTEMS DEFENDANTS' MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR DISMISSAL WITH PREJUDICE PURSUANT TO RULE 41(b)**; the **CERTIFICATION OF KENNETH D. FRIEDMAN, ESQ.**; and the **(PROPOSED) ORDER GRANTING THE PAGING SYSTEMS DEFENDANTS' MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR DISMISSAL WITH PREJUDICE PURSUANT TO RULE 41(b)** with the C/M ECF system for the U.S. District Court for the District of New Jersey, thereby effectuating service upon all counsel of record via electronic means.

I certify under the penalty of perjury that the foregoing statements are true and correct.

Executed in New York, New York on this 14th day of March, 2014.

/s/ Kenneth D. Friedman
Kenneth D. Friedman

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